

Minutes of the Commission Meeting of the Board of Commissioners, Carbon County, State of Utah, held April 15, 2015 at the Courthouse Building, Price, Utah, commencing at 4:30 p.m.

Those present: Casey Hopes, Commission Chair
Jae Potter, Commissioner, Excused
Jake Mellor, Commissioner

Also present: Seth Oveson, Clerk/Auditor
Lori Perez, Deputy Clerk
Sandy Lehman, Commission Secretary
Jeff Wood, Sheriff
Christian Bryner, Attorney
Rose Barnes, HR
Julie Medley, Assessor
Michael Johnson, Weed Abatement
Shelley Wright, CJC
Jason Llewelyn, Emergency Services

Clerk's Certificate of Compliance with Open Meeting Law was filed.

Commissioner Hopes welcomed everyone and led the Pledge of Allegiance. The meeting began at 4:34 p.m.

1) Approval of Minutes

Commissioner Mellor made a motion to approve the April 1, 2015 Commissioner Meeting minutes. Commissioner Hopes stepped down and seconded. Motion carried.

Commissioner Mellor made a motion to approve the April 1, 2015 Work Meeting minutes. Commissioner Hopes stepped down and seconded. Motion carried.

2) Recognition of Sterling Scholar Recipients

Commissioner Hopes asked each of the Sterling Scholar Recipients to introduce themselves. They were: Alanna Stewart-Drama & Vocal, Adam Bone-Speech and Forensics, Lauren Engar-Science, Arianne Wood-Music, Paige Martinez-Computer Technology and Leah Brandt- Family and Consumer Science. Adam Bone explained that the Sterling Scholar allows for those who excel in a particular area to create a portfolio and present it in an interview to be judged. The Southeastern Utah Division includes students from Carbon, Emery, San Juan and Grand counties.

Commissioner Hopes has been a judge for the competition and wanted to acknowledge and recognize the best and brightest of our future leaders. These recipients also do service, extra-curricular activities and carry a near perfect GPA. Commissioner Hopes thanked them for attending the meeting.

3) Open Sealed Bids for Weed and Mosquito Abatement Chemical – M. Johnson

There were eight bids opened. Each bid had individual costs for approximately thirty different chemicals.

1 – Ferriters CPS	Acknowledged
2 – Red River Specialties	Acknowledged
3 – Aksarben Distribution	Acknowledged
4 – Univar	Acknowledged
5 – Steve Regan Co.	Acknowledged
6 – Adapco Inc.	Acknowledged
7 – Wilbar Ellis	Acknowledged
8 – Gil Manufacture Inc.	Acknowledged

Commissioner Mellor made a motion to acknowledge the bids and turn them over to the Weed Department for further review and allow Mike Johnson to award the bids. Commissioner Hopes stepped down and seconded. Motion carried.

4) **Open Sealed Bids for UTV for Sheriff's Search & Rescue – Sheriff Wood**

No bids were received. It will be re-advertised.

5) **Review and possible approval of Crisis Nursery contract with State of Utah – Shelley Wright**

Shelley Wright said this is a five year renewal contract for the Crisis Nursery grant. This year's grant is for \$135,000 which is \$5,000 more than in the past. This grant will last for five years.

There were procedural changes made on this contract. The Children's Justice Center now needs to have on file copies of identification from the parents who are picking up children and there are new training requirements. All of the changes will be implemented.

Commissioner Mellor made a motion to approve the Crisis Nursery contract as presented. Commissioner Hopes stepped down and seconded. Motion carried.

6) **Appeal of Personal Property Tax – Julie Medley**

Julie Medley explained that a personal property tax notice was not issued for a mobile home in 2014 due to a computer glitch. This tax payer has always paid on time and has already paid for 2015. Julie is asking for the tax to be written off as an error and the interest and penalty be waived. The personal property tax due is \$249.34. The interest and penalty have not been calculated yet.

There was a discussion concerning the difference between real property tax and personal property tax and if that tax can be waived. Christian will review the code and see if the personal property tax can be waived or just the interest and penalty.

Commissioner Mellor does not want to waive the tax responsibility of the property owner. He would like to see the statute for personal property tax before making a decision.

Julie explained that interest and penalties are not yet calculated because the computer isn't recognizing that it is late. The computer never issued the tax notice in 2014. Commissioner Hopes requested that if the tax payer is required to pay the missing year that it be accepted on a payment plan and not all at once.

Commissioner Mellor made a motion to table this item until further information is received. Commissioner Hopes stepped down and seconded. Motion carried.

7) **Public Lands access – Marcus Palacios**

Marcus addressed the Commission in October 2014 regarding public land in Whitmore Canyon and the gate owned by Carbon County that denies access. It was suggested at that time that East Carbon City be asked for their opinion concerning the protection of their water source if the gate is opened. Marcus said that the court documents do not allow East Carbon to favor the public in this situation but East Carbon can assert their right to keep the reservoir and water source clean if the gate were opened by Carbon County.

Marcus explained that if Carbon County took the gate out, East Carbon City would step up and protect their raw water source from contamination. Commissioner Hopes's understanding is if we take the gate out then it might harm or negate all of the work done to allow East Carbon to have their water source there. Marcus said the attorney's filed an amendment to the original contract which says: (Paragraph 15) "all fishing and public access on the Grassy Trail Reservoir shall be prohibited. Grassy Trail Reservoir is a public raw supply facility and must be managed at all times by the cities to protect the quality and availability for watering compliance with the rules". Basically it is saying that East Carbon will keep the water clean. The part that Marcus feels is unlawful is where it says a locked gate or access route to the dam located within 100 yards of the Y on Whitmore Canyon Road shall be maintained at all times to prevent fishing and public access or recreation on the dam reservoir. This was approved by the Carbon County Commission.

Marcus showed a map from 1958 of the County road and said that Section 72-5-104 says: "any road that has continual use for ten years becomes a public road". By 1958 the road appeared on maps and is now sixty years old. Christian said there is no dispute that it is a County road. The court order is based on a stipulation, an agreement of all the parties. There is an underlying agreement that the County would gate this road. Mr. Palacios is saying the County shouldn't lock up this road but the owners of the property say that it was ordered and agreed upon to gate the road.

Christian said the County could open this road because a public road can only be closed on a temporary basis and only if it's necessary to mitigate damage to a road or the surrounding areas. It's hard to tell whether or not the protection of the lake fits these grounds. There might be grounds for the County to open the gate; but would that be deemed as a breach of contract. It's not a matter of statutory law but a matter of violating a contract. Would East Carbon City be violating its contract because of the stipulation that underlies the court order, and are they willing to break the contract or not enforce it.

What we are hearing from East Carbon is they do not have the power to unlock the gate; they only have the power to keep the water source clean so if Carbon County unlocks the gate they will still keep the water source clean.

Marcus said East Carbon City doesn't have the power to open the gate. Marcus is not asking for East Carbon to breach their contract, all he is asking for is East Carbon to state that they will keep up their part of the agreement by keeping the reservoir clean and not allowing any recreation.

Christian said East Carbon is not formally asking that the gate be opened only that they will keep the water clean if the gate is opened. By opening the gate everyone risks a claim by the property owners that the contract has been violated and breached. In other words, East Carbon could lose their access to their water source. Christian reiterated that we need to look at the consequences and act carefully. Would it be in the best interest of East Carbon City and the public to proceed.

Commissioner Hopes is still leery because of the multiple parties involved in the contract; if we break the contract does it break the contract for everybody. This is what Christian is alluding to. He doesn't want to hurt East Carbon with a County action.

Marcus said it does say in the full court order that Carbon County owns the gate. Christian said it also says Carbon County will keep the gate locked. Marcus does not understand how the County can close an established road. Is it legal and right to close off public land by closing a tax dollar maintained County road that people are not allowed to use.

Christian thinks Marcus has framed the issue correctly and these are the questions being asked. Whether or not a court is going to agree with Marcus's interpretation of it is in question but this is definitely the legal issue. We still need to look at it further.

Mayor Doug Parson said it is his understanding that the gate was placed there by the request of East Carbon City. They have keys to access the reservoir. Historically when Kaiser Steel was going through bankruptcy, the City had to purchase the reservoir from them. Now West Ridge Partners has access and control of the area. He has contacted one of the owners, who wants the gate kept locked in order to keep people out. East Carbon is the signee of that agreement.

Mayor Parson is in favor of having public lands open. Commissioner Mellor asked if East Carbon City is willing to bear some of the risk. Mayor Parson's is not sure because of legalities but East Carbon City will protect their water shed. Commissioner Mellor asked Christian about the potential ramifications if the gate was removed.

Christian would like authorization to conduct legal research and speak to experts on land use law, get a legal opinion and put together a summary of his research. After reviewing his research the Commission could decide how to proceed.

Commissioner Mellor made a motion to allow Christian to incur expenses for research and involve East Carbon City in those discussions. Commissioner Hopes asked for an estimated cost for the research. Mayor Parsons said when the reservoir was open to fishing there were problems with trash. Right now the police cannot go above the gate because they do not have keys. If the gate was removed then the police would have access. A concern is that the land owners are fishing which is against the contract. Jason said the County does have a key to the gate.

Commissioner Mellor asked if East Carbon has the finances to manage the reservoir. Mayor Parson doesn't think it would cost very much. Marcus said unlocking the gate is only for access to the road and there would still be no recreation on the reservoir.

Commissioner Mellor amended his motion to include Christian providing an approximate cost for research. Commissioner Hopes stepped down and seconded. Motion carried.

8) **Concerns about fish pond at County Fairgrounds causing alkali in soil of properties near area – Tony Lesser**

Tony Lesser has fifteen acres that he reclaimed from Russian olives to extend his pasture. That field is now showing signs of alkali. His pond has water leaking into it that he feels is coming from the County fish pond. During the winter there is no water in the canal and water is still present in his field.

Christian asked if the water is coming up from the bottom and is it pooling on the surface. Tony said the water is coming up from the bottom in the pond and in the fields the alkali has spread and there are muddy areas. Christian asked if the alkali has made his field unusable. Tony said there is no reason to extend his field any further if the alkali continues to increase. Christian asked that the County Engineer take a look at the field and pond.

The discussion continued including water leaking along the roots of the bulldozed Russian olives and bentonite recently being added to the pond to mitigate potential leaks.

Christian said Curtis may want to ask for help from the Extension office. It was recommended that the County Engineer evaluate the alkali issue and have him contact Mr. Lessor at 435-637-4488.

Commissioner Hopes thanked Mr. Lessor and will have Curtis contact him.

9) **Review and approval of License for Use of Real Property to USU for the purpose of allowing USU to take control of and have access to NOAA weather stations at Carbon County Airport**

Christian said he and Jason talked to experts about what regulations apply and don't apply to the Carbon County Airport. One suggestion was to start implementing regulations now that would apply if our airport ever became a commercial airport. Christian has started to look at the regulations and wanted to know if these should be implemented before allowing USU Eastern access to the weather station.

Jason and Christian have learned a lot and have several new sources for information concerning airports including available grants.

Commissioner Mellor made a motion to table this item until more information is provided. Commissioner Hopes stepped down and seconded. Motion carried.

10) **Request for County Credit Cards – Sheriff Wood**

Sheriff Wood requested credit cards for Chief Deputy Cletis Steel and Secretary Janice Drolc. Frank Ori from the Recreation Department also requested a credit card and the Commissioners requested a credit card for Commission Secretary Sandy Lehman.

Commissioner Mellor made a motion to provide credit cards for Frank Ori, Cletis Steel, Janice Drolc and Sandy Lehman. Commissioner Hopes stepped down and seconded. Motion carried.

11) **Review of bid results for two vehicles for Sheriff's Office – Sheriff Wood**

Sheriff Wood said he has reviewed the bids for the new trucks. Riverton Chevrolet Motor's bid for the Chevy Truck is \$12,000 less and meets all of the requested specs. He recommends Riverton Chevy for that bid.

The bids for the Ford trucks were close but Moab Ford's bids did not have all the equipment requested. The Community Motor bid did meet the specifications and is for \$31,123. He recommends the Community Motor bid for the Ford. Christian said technically the Moab bids can be treated as nonresponsive because they did not have all the specs or options.

Commissioner Mellor made a motion to approve the recommendations made by Sheriff Wood, the Chevy Truck bid going to Riverton Chevrolet Motor and the Ford Truck bid going to Community Motors. Commissioner Hopes stepped down and seconded. Motion carried.

12) Review and approval of EDC Utah Marketing grant – Seth Oveson

Seth said this is for two economic development grants for \$5,000 and \$1,000 to help our Economic Development office show case the County and invite companies to visit. Seth reviewed the grants.

Commissioner Mellor made a motion to accept the EDC Marketing and Sponsorship grants subject to legal review by Christian. Commissioner Hopes stepped down and seconded. Motion carried.

13) Review and approval of EDC Utah Sponsorship grant – Seth Oveson

Included in #12.

14) Ratify approval and signing of VOCA Grant – Denna Fausett

Denna said this VOCA grant has a 3% increase this year which they will apply to mileage. The increase is for \$1,028.59.

Commissioner Mellor made a motion to ratify the VOCA grant. Commissioner Hopes stepped down and seconded. Motion carried.

15) Review and approval of 2015 new and continued property tax exemptions – Seth Oveson

Seth said tax exempt properties must reapply each year. All of the entities on the list have reapplied and need approval by the Commission so that the Assessor can get the tax role ready. There is one new property from the United Mine Workers Local Union 9958 in East Carbon. Their application has been submitted and they have not-for-profit status but because they are new it needs to be reviewed and approved by the Commission for tax exemption.

The building is a retired United Mine Workers Union Hall and is used by East Carbon residents as a civic center for charitable purposes such as Boy Scouts, wedding receptions and a variety of trainings. The request for tax exemptions has to be approved before the May 22 deadline.

Commissioner Mellor made a motion to accept and approve all of the continued property tax exemptions including the East Carbon United Mine Workers Union building, Commissioner Hopes stepped down and seconded. Motion carried.

16) Review and approval of Department Reports

Commissioner Mellor made a motion to adjourn. Commissioner Hopes stepped down and seconded. Motion carried.

Meeting adjourned at 5:50 p.m.

ATTEST:


Seth Oveson, County Clerk/Auditor



